

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	CIVIL ACTION NO. 16-4465
	:	
v.	:	
	:	
DONNA GARDEN BOWDEN, RYAN	:	
BOWDEN, MATTHEW BOWDEN,	:	
LOGAN BOWDEN, TRAVIS BOWDEN,	:	
and STARLA BOWDEN,	:	
	:	
Defendants.	:	

ORDER TO SHOW CAUSE

AND NOW, this 7th day of April, 2017, the plaintiff, the United States of America, having filed a complaint in this mortgage foreclosure action on August 15, 2016, *see* Doc. No. 1; and the plaintiff having filed a suggestion of death on November 14, 2016, in which the plaintiff indicated that the originally-named defendant, David M. Bowden, passed away on April 22, 2015, *see* Doc. No. 3; and the plaintiff having also filed a motion for an extension of time to effect service on November 14, 2016, which the court granted on November 16, 2016, *see* Doc. Nos. 4, 5;¹ and the court having granted the plaintiff's request to substitute the above-captioned defendants for the decedent; *see* Doc. Nos. 6-8; and

THE COURT HAVING entered an order on December 21, 2016, in which the court directed the plaintiff to serve the complaint and motion for substitution upon the substituted defendants by no later than January 30, 2017, *see* Order, Doc. No. 9; and it appearing that the clerk of court forwarded summonses for each of the defendants to the plaintiff on December 21, 2016, *see* First Unnumbered Docket Entry After Doc. No. 9; and the court having entered an

¹ The plaintiff requested the extension of time to serve the named defendant's estate. *See* Motion to Extend Time to Make Serv. at ¶¶ 6-8.

order on February 10, 2017, in which the court required the plaintiff to file a status report to indicate the status of service in this matter, *see* Doc. No. 10; and the plaintiff having filed a status report on February 14, 2017, in which it stated that it had unsuccessfully attempted to have the defendants waive service, but was now attempting personal service via process server, *see* Doc. No. 11; and

THE COURT NOTING THAT Rule 4(m) of the Federal Rules of Civil Procedure requires a plaintiff to serve the summons and the complaint upon each defendant within 90 days after the filing of the complaint, *see* Fed. R. Civ. P. 4(c)(1) (requiring plaintiff to serve summons with copy of complaint); Fed. R. Civ. P. 4(m) (requiring plaintiff to serve defendant with process “within 90 days after the complaint is filed”); and it appearing, therefore, that the plaintiff had until March 21, 2017, to serve the summonses and complaint upon the defendants; and

IT APPEARING THAT the plaintiff has not filed any proofs of service indicating he has effected service of the summonses and complaint in this matter, *see* Fed. R. Civ. P. 4(l)(1) (“Unless service is waived, proof of service must be made to the court.”); and it thus appearing that to date, the plaintiff has not complied with Rule 4(m) by virtue of its failure to serve the summonses and complaint on the defendants and file the appropriate proof of service with the court; accordingly, it is hereby **ORDERED** as follows:

1. The plaintiff will **SHOW CAUSE** why the court should not dismiss this action for lack of timely service of the summonses and complaint;
2. The plaintiff, if responding, must file a written response with the court no later than **April 17, 2017**;²

² Any response by the plaintiff must show either that (1) it effected service of process within the 90-day period, or (2) it had good cause for the failure to effect service. *See* Fed. R. Civ. P. 4(m) (mandating dismissal of action against defendant not timely served within 90 days unless plaintiff shows good cause for failure to serve).

3. If the plaintiff fails to respond to this order to show cause, the court will interpret its failure as an indication that it is unopposed to dismissal of this action; and

4. The court will resolve the order to show cause on **April 18, 2017**, or soon thereafter, without oral argument unless otherwise ordered by the court.

BY THE COURT:

/s/ Edward G. Smith
EDWARD G. SMITH, J.